

E-filed on 5/19/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

REHAN SHEIKH,

Plaintiff,

v.

CISCO SYSTEMS, INC., and DOES 1 through
20, inclusive,

Defendants.

No. C-07-00262 RMW

ORDER RE: PLAINTIFF'S "2nd REQUEST
FOR ACCOMMODATION FOR
INDIVIDUALS WITH DISABILITIES";
ORDER CONTINUING HEARING ON
CISCO'S MOTION TO COMPEL
ARBITRATION

[Docket No. 50]

On April 8, 2008, the court issued an order setting a briefing schedule on plaintiff's second motion to remand this action to state court. Because plaintiff had not set a hearing date for his motion to remand, the court set the briefing schedule and hearing date to coincide with that of a motion to compel arbitration subsequently filed by defendant Cisco Systems. Both plaintiff's motion to remand and defendant's motion to compel are currently set for hearing on May 23, 2008 at 9:00 a.m.

On April 21, 2008, plaintiff filed a document titled "2nd Request for Accommodation for Individuals with Disabilities." *See* Docket No. 50. In it, he asks: (1) that the court schedule a hearing on his motion to remand; (2) that he be given permission to attend court via telephone; (3) that his motion to remand be heard before defendant's motion to compel arbitration and that he be granted 45 days after the court's ruling on his motion to remand to oppose defendant's motion to compel arbitration, should such an opposition be necessary; (4) that the court consider for purposes of the motion to remand exhibits previously submitted by plaintiff in support of his other motions, particularly a letter from Unum Provident indicating that plaintiff's long term disability benefits have been paid; (5) for help with procedural questions such as how to schedule a hearing (specifically asking for permission to ask the court's clerk questions via phone or email); and (6) that the court appoint counsel to assist him. Plaintiff's request also indicates that he intends to file a motion for sanctions and "extra costs that plaintiff incurred" against defendant "for non-compliance of court order to confer" and because "there is no valid justification for defense to bring a motion to compel binding arbitration at this time." Defendant filed a declaration opposing plaintiff's requests. *See* Docket No. 55.

The court has scheduled a hearing on plaintiff's remand – May 23, 2008 at 9:00 a.m. – therefore, plaintiff's request (1) above is moot.

With regard to request (2), plaintiff is hereby given permission to attend the May 23, 2008 hearing by telephone. The courtroom deputy will call his phone number, (209) 982-9039, on Friday May 23, 2008, sometime between 9:00 and 11:00 a.m. Plaintiff should await the court's call. Failure to answer the phone may result in a failure to appear at the hearing. If plaintiff would like to be contacted at a different number, he must inform the court's Courtroom Deputy, Jackie Garcia, at (408) 535-5375.

Defendant opposes plaintiff's request (3) for additional time. Defendant asserts that for economy's sake, plaintiff's motion to remand and defendant's motion to compel arbitration should be heard together as the court intended by issuing its April 8, 2008 Order. Further, defendant's counsel's declaration states that while plaintiff indicated to defendant's counsel that he was too unwell to respond to defendant's motion to compel arbitration, he had meanwhile accelerated the

prosecution of his worker's compensation claim before the Workers' Compensation Appeals Board. Declaration of Marlene Muraco ("Muraco Decl.") ¶ 6. Defendant also points out that giving plaintiff 45 days past the time the court rules on the motion to remand would give plaintiff over 3 months to oppose the motion to compel arbitration. While the court understands defendant's desire to keep this case moving forward, it is also cognizant of the fact that plaintiff is proceeding *pro se* and that the resolution of his motion to remand may make opposing defendant's motion to compel arbitration unnecessary. Accordingly, the court will grant plaintiff's request in part. The court hereby continues the briefing schedule and hearing for defendant's motion to compel arbitration to give plaintiff thirty (30) days after the court's ruling on plaintiff's motion to remand to respond. The court will set the briefing and hearing schedule in its order on plaintiff's motion.

Although defendant generally opposes request (4) above that the court consider documents plaintiff has previously submitted in support of his prior motion to remand, defendant does not oppose plaintiff's request to consider the Unum letter. The court will grant plaintiff's request (4) and will consider the documents he has previously submitted.

Plaintiff's requests (5) and (6) ask the court to provide varying levels of help to plaintiff with regard to pursuing his claims. As plaintiff is well aware, the court is not permitted to provide plaintiff with legal advice either by telephone or by email. Nor does it have resources to provide the type of procedural assistance he requests even to the extent that such advice would not otherwise be legal advice. The court has compiled a handbook for *pro se* litigants to help unrepresented parties with proceeding in federal court. This handbook is available from the court's website at <http://www.cand.uscourts.gov/> by clicking on the "Pro Se Handbook" link under the "COURT INFORMATION" heading at the right side of the screen.¹ Further, the court declines to appoint counsel in this matter. Plaintiff may renew his request following the court's ruling on his motion to remand. Accordingly, the court denies plaintiff's requests (5) and (6) above.

¹ The link appears to be:
<http://www.cand.uscourts.gov/CAND/FAQ.nsf/60126b66e42d004888256d4e007bce29/14de5a2dfcd aa08c88256ebc0054574f?OpenDocument>

1 Finally, while plaintiff seems to indicate that he intends to seek sanctions against defendant's
2 counsel "for non-compliance of court order to confer" and for bringing the motion to compel
3 arbitration, the court cautions that plaintiff should be sure he has a reasonable basis for bringing
4 such motions. If there is no order specifically directing defendant's counsel to confer with plaintiff,
5 it is highly unlikely that sanctions will be awarded. Further, it appears defendant brought its motion
6 to compel arbitration with at least a reasonable belief that the dispute between the parties is subject
7 to arbitration under plaintiff's employment agreements with Cisco, therefore, plaintiff should be
8 certain that he has a basis for requesting sanctions. Bringing frivolous motions can result in plaintiff
9 being sanctioned himself.

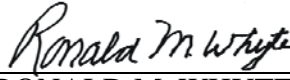
10 ORDER

11 For the forgoing reasons:

- 12 • Plaintiff's request (1) is denied as moot. The court has already scheduled a hearing
13 on his motion to remand to state court. The hearing will be held on Friday, May 23,
14 2008 at 9:00.
- 15 • Plaintiff's request (2) is granted. The courtroom deputy will call his phone number,
16 (209) 982-9039, on Friday, May 23, 2008, sometime between 9:00 and 11:00 a.m.
17 To be contacted at a different number, plaintiff must inform the court's Courtroom
18 Deputy, Jackie Garcia, by calling (408) 535-5375.
- 19 • Plaintiff's request (3) is granted in part. The briefing schedule and hearing for
20 defendant's motion to compel arbitration will be continued to give plaintiff thirty (30)
21 days after the court's ruling on plaintiff's motion to remand to respond. The court will
22 set the briefing and hearing schedule in its order on plaintiff's motion to remand.
- 23 • Plaintiff's request (4) is granted. The court will consider in support of his second
24 motion to remand the documents that plaintiff previously submitted in support of his
25 prior motion to remand and his motion for reconsideration.
- 26 • Plaintiff's request (5) is denied. Plaintiff is directed to the Handbook for Litigants
27 Without A Lawyer, located on the court's home page at
28 <http://www.cand.uscourts.gov/>.

- Plaintiff's request (6) is denied without prejudice. The court will not appoint counsel for plaintiff.

DATED: 5/18/08



RONALD M. WHYTE
United States District Judge

United States District Court
For the Northern District of California

1 A copy of this order was mailed on 5/19/08 to:

2 **Plaintiff:**

Rehan Sheikh
3 PO Box 869
French Camp, CA 95231-0869
4 *PRO SE*

5 Notice of this document has been electronically sent to:

6 **Plaintiff**

Rehan Ayyub Sheikh rehansheikh@yahoo.com

8 **Counsel for Defendants:**

Marlene S. Muraco mmuraco@littler.com
9 Erica H. Kelley ehermatz@littler.com

12 Counsel are responsible for distributing copies of this order to co-counsel, as necessary.